



To: Members of the Michigan House Commerce Committee
From: Tricia Kinley, Director, Tax Policy and Economic Development
Date: October 9, 2007
Subject: Testimony on House Bills 4050, 4317, 4680

This memo is to provide you with testimony in regards to updating Michigan's unclaimed property, and consumer protection, laws for gift certificates and gift cards. As evidenced in these bills, the sponsors are clearly seeking improvements that would, generally speaking, allow consumers to use gift cards and gift certificates for longer. The Michigan Chamber shares this pro-consumer goal with the sponsors. We also have a long-standing goal of improving the compliance burden associated with reporting property to the state.

Unfortunately, Michigan's unclaimed property law is far more complicated than first meets the eye. First, the law imposes a significant administrative burden on Michigan's job providers. Many companies must track unclaimed property for years, and many must report thousands of pieces of property to the state (as custodian of the unclaimed property) every year. This is a true hidden cost of doing business in Michigan.

However, the true irony of this law is that while companies are reporting thousands of pieces of property to the state, many of which are gift cards/gift certificates, consumers often have little chance of EVER getting the money/value of the unused gift card/certificate back from the state! The state requires property with a value under \$50 to be reported **in the aggregate....with no name of the owner**. In other words...if you find a \$25 movie gift card in your sock drawer, (first of all you will probably try to go to the movies...but with no luck if it expired) and you eventually attempt to go to the Michigan Department of Treasury's Unclaimed Property website to get the value of your \$25 movie card back...you won't get it!

The only way to truly unite consumers with their unused gift card/certificate is to not only limit or prohibit expiration dates but to EXEMPT GIFT CARDS/CERTIFICATES AS ESCHEATABLE PROPERTY! Otherwise many of your good-faith efforts for consumers will be wasted.

The Michigan Senate spent a considerable amount of time developing a “win-win” proposal that will protect consumers, yet also provides reasonable expectations of various industry interests. It is a carefully balanced compromise represented in Senate Bills 388 and 387. We urge you to consider this approach in any of the House Bills before this committee.

If you have any questions for the Michigan Chamber about this issue, please don't hesitate to contact me, or Phil Guyesky, at (517) 371-2100. Also attached is more background information on this issue.

Gift Certificates/Gift Cards...the Best Way to Protect Consumers

The Michigan Uniform Unclaimed Property Act was last updated in 1995 to more closely resemble similar statutes in other states' treatment of abandoned or unclaimed property (escheats) –both tangible and intangible. Yet, many states have made further improvements, and once again Michigan lags behind in its administration of the unclaimed property law.

Consumer Protection

Consumers should be protected when they buy a gift certificate. However, if there is a prohibition against selling gift certificates with an expiration date, it is only logical that Michigan should also exempt them as unclaimed property (escheats) to the state.

Let's Go To the Movies!

Let's be realistic...if you find a gift certificate for the movie theater in your sock drawer that is 6 years old...what do you do? You go to the movies like any normal person would! You probably wouldn't go looking on the Michigan Department of Treasury Unclaimed Property Division website. Furthermore, if the card is for \$25...it would not be reported on the website anyway!

If Michigan legislators want to prohibit expiration dates on gift certificates/gift cards...the **ONLY** way to truly protect consumers is to remove these items as escheatable property. **Otherwise it is highly unlikely consumers will EVER redeem the value of their unused card.** Consider the following:

- 1) Retailers (holders of the property) do not usually obtain the name and address of the person who will be *receiving* the certificate (the owner). That person (or their legal representative) is the **ONLY** person who can legally claim the property. When the property is turned over to the state, the owner's name is usually not indicated (in fact, property under \$50 are reported to the state **without** a name attached!) Consequently, any searches for unclaimed property done by the owner will NOT reveal the fact that an unredeemed gift certificate has been turned over to the state.
- 2) Some retailers obtain the name and address of their customer, the purchaser of the gift certificate...but would NOT know the ultimate *owner (recipient of gift.)* When the property is turned over to the state, the holder must report the last known owner of the property, which would be the purchaser. However the purchaser would not be the owner of the property and could NOT legally claim the property. The owner (recipient) of the property (gift) would have difficulty proving ownership if the state's records show someone else as the owner.

Michigan's Competitiveness

There has been a significant trend in recent years to exempt gift certificates from unclaimed property reporting in the various states. The bordering states of Illinois, Ohio, and Indiana, Wisconsin all exempt gift certificates from unclaimed property reporting. Currently there are **31** states that totally or partially exempt gift certificates from unclaimed property reporting. This only makes sense considering the extraordinary proliferation of using gift cards/certificates as gifts.

If the purpose of the unclaimed property statute is to unite the property with the owner, then the best mechanism to do that is to allow the owner the right to redeem it from the retailer...but they can only truly do that if the property is *retained* by the retailer.